VPH

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 807 OF 2007
IN
WRIT PETITION No. 7231 OF 2005

Office notes, :
office memoranda :
of coram, :
appearances, :
Court's orders : Court's or Judge's
directions & : order
Registrar's :
orders :

Mr. N. M. Ganguli, advocate for applicant/petitioner.

Mr. D. A. Nalavade, advocate for petitioner in W.P.

CORAM: Mrs. Nishita Mhatre,J.

DATE : AUGUST 17, 2007.

P.C.:

. This Civil Application has been filed by the applicants for a direction to the respondent to continue Sadanand Ramchandra Gadigaonkar and Ramesh Arjun Rane in the employment and pay them their wages and other service benefits till the petition is heard.

2. The dispute in the petition is whether the age of retirement is 58 years, as contended by the

respondent to the Civil Application/ petitioner in Writ Petition No. 7231 of 2005, or 60 years as contended by the Union i.e. present applicant. Accordingly to Mr. Ganguli, the learned counsel for applicant, if the standing orders are not applicable to the petitioner's establishment, as contended by the petitioners, the workers would be entitled to continue in service, even beyond the age of 60 years. It is on this basis, the present application has been made.

3. It appears that workers have disputed the dates of birth, recorded by the respondent/original petitioner.

4. However, the Civil Application cannot be granted at this stage, since it would mean that the entire petition would be disposed of by an interim application. If it is found that the workers are entitled to be continued upto the age of 60 years

or beyond, they would also be entitled to back wages. However, the petitioners have admitted that certain amounts are due and payable to the workmen, assuming that they had retired at the age of 58 years, on the basis of the dates of birth, recorded with the petitioner. The statement of dues is annexed to the petition at Exhibit C, at page 29. The petitioners are directed to pay these amounts to the workmen concerned, without prejudice to the rights and contentions of the parties. The amounts shall be paid within one week. The provident fund due is lying with the Regional Provident Fund Commissioner, and therefore, this amount shall be deducted while making payment to the employees as per Exhibit C of the petition. Civil Application is accordingly disposed off.

Sd/-

[**Smt. NISHITA MHATRE, J.]**